

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 95-7169**

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WILLIAM RUSSELL SPEAR,

Plaintiff - Appellant,

versus

UNITED STATES MARSHAL'S SERVICE; JOE SMITH;  
UNKNOWN MARSHAL; JUDGE FOREHAND; CLERKS  
UNKNOWN, CITY OF CHESAPEAKE, VIRGINIA; JOHN R.  
SIMPSON; UNITED STATES PAROLE COMMISSION,

Defendants - Appellees.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Robert G. Doumar, District Judge. (CA-95-369-2)

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Submitted: October 17, 1995

Decided: January 23, 1996

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Before HAMILTON, LUTTIG, and MICHAEL, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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William Russell Spear, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant appeals the district court's dismissal without prejudice of his 42 U.S.C. § 1983 (1988) action for failure to respond to a court order requesting more information in regard to his claims. We dismiss the appeal for lack of jurisdiction because the order is not appealable. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (1988), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (1988); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541 (1949). The order here appealed is neither a final order nor an appealable interlocutory or collateral order.

The district court's dismissal without prejudice is not appealable. See Domino Sugar Corp. v. Sugar Workers' Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). A dismissal without prejudice could be final if "no amendment [to the complaint] could cure defects in the plaintiff's case." Id. at 1067. In ascertaining whether a dismissal without prejudice is reviewable in this court, the court must determine "whether the plaintiff could save his action by amending the complaint." Id. at 1066-67.

Since Appellant could have amended his complaint to cure the defects noted in the district court's order requesting more information, we dismiss the appeal for lack of jurisdiction because we find that the dismissal order is not appealable. We dispense with oral argument because the facts and legal contentions are adequate-

ly presented in the materials before the court and argument would not aid the decisional process.

DISMISSED